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**NONLINKING FACTORS OF PUBLIC ASSISTANCE ELIGIBILITY  
WELFARE-TO-WORK REQUIREMENTS FOR RCA PARTICIPANTS**

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**CHAPTER 42-800      WELFARE-TO-WORK REQUIREMENTS FOR REFUGEE CASH ASSISTANCE (RCA) PARTICIPANTS**

**42-800      WELFARE-TO-WORK REQUIREMENTS FOR RCA PARTICIPANTS: INTRODUCTION      42-800**

- .1 RCA eligibles who are residing in areas in which the county plan provides for their participation in the Welfare-to-Work Program shall be required, as a condition of eligibility, to participate in welfare-to-work activities.
- .2 All Chapter 42-700 regulations shall apply for purposes of Refugee Cash Assistance welfare-to-work participants, unless superseded by regulations contained in Sections 42-800 through 42-811.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 11320, and 11321.6(b) and (d), Welfare and Institutions Code.

**42-801      WELFARE-TO-WORK PARTICIPATION FOR RCA PARTICIPANTS      42-801**

- .1 The RCA eligible who meets the criteria in Sections 69-206.11 and 42-800.1 and who is not exempt under Section 69-208.4, shall participate, as a condition of eligibility.
- .2 If the individual fails or refuses to participate, the procedures in Sections 69-209 and 69-210 shall apply.
- .3 The CWD shall follow the procedures in Section 42-711 except that RCA welfare-to-work participants are not eligible for supportive services unless funded through sources other than CalWORKs.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 11320, and 11321.6(b) and (c), Welfare and Institutions Code.

**42-802      JOB, TRAINING, AND EDUCATION FOR RCA WELFARE-TO-WORK PARTICIPANTS      42-802**

- .1 Education Services
  - .11 RCA welfare-to-work participants may participate in college and community college educational programs provided it does not constitute full-time attendance as defined in Section 69-206.5 or is exempt under Section 69-206.52 or .53.
- .2 Work experience as described in Section 42-716.31(d).
  - .21 Repealed by Manual Letter No. EAS-98-03, effective 7/1/98.

<b>42-802</b>	<b>JOB, TRAINING, AND EDUCATION FOR RCA WELFARE-TO-WORK PARTICIPANTS</b>	<b>42-802</b>
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NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 11320, and 11321.6(b) and (d), Welfare and Institutions Code; and 45 CFR 400.203.

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- .1 Self-initiated plans are allowable; however, an educational plan which includes full-time attendance in an institution of higher education, as defined in Section 69-206.5, shall not be allowed except as defined in Sections 69-206.52 or .53.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 11320 and 11321.6, Welfare and Institutions Code.

<b>42-804</b>	<b>DEVELOPMENT OF A WELFARE-TO-WORK PLAN FOR RCA PARTICIPANTS</b>	<b>42-804</b>
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- .1 All RCA welfare-to-work participants shall cooperate with the CWD, or agency contracting with the CWD, to develop a mutually agreed upon welfare-to-work plan according to the requirements of Section 69-208.1.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 11320 and 11321.6, Welfare and Institutions Code; and 45 CFR 400.79.

<b>42-805</b>	<b>JOB SEARCH FOR RCA WELFARE-TO-WORK PARTICIPANTS</b>	<b>42-805</b>
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- .1 Job search shall be conducted according to the requirements of Section 69-208.2.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 11320 and 11321.6, Welfare and Institutions Code; and 45 CFR 400.80.

<b>42-806</b>	<b>SERVICES FOR RCA WELFARE-TO-WORK PARTICIPANTS</b>	<b>42-806</b>
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- .1 The CWD shall maintain separate accounting records of expenditures for RCA welfare-to-work participants.
- .2 The CWD shall fund RCA welfare-to-work services with the CWD's federal social services and targeted assistance allocation.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 11320, and 11321.6(c) and (d), Welfare and Institutions Code.

<b>42-807</b>	<b>CAUSE DETERMINATIONS AND COMPLIANCE FOR RCA WELFARE-TO-WORK PARTICIPANTS</b>	<b>42-807</b>
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- .1 Cause determination and compliance requirements in Sections 42-721.1 and .2 shall apply. Section 42-721.4 shall not apply to RCA welfare-to-work participants.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10553, 10554, 11320, and 11321.6, Welfare and Institutions Code.

<b>42-808</b>	<b>GOOD CAUSE CRITERIA FOR RCA WELFARE-TO-WORK PARTICIPANTS</b>	<b>42-808</b>
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- .1 All good cause criteria specified in Section 69-209.4 shall apply. Good cause criteria specified in Section 42-721.3 shall also apply.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10553, 10554, 11320, and 11321.6, Welfare and Institutions Code.

<b>42-809</b>	<b>COMPLIANCE FOR RCA WELFARE-TO-WORK PARTICIPANTS</b>	<b>42-809</b>
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- .1 For compliance procedures, refer to Section 42-721.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 11320, 11320.31, and 11321.6, Welfare and Institutions Code.

<b>42-810</b>	<b>FINANCIAL SANCTIONS FOR RCA WELFARE-TO-WORK PARTICIPANTS</b>	<b>42-810</b>
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- .1 If the nonexempt RCA welfare-to-work participant has refused or failed, without good cause, to meet or comply with the requirements of Sections 69-208.1 through 69-208.3 and Sections 42-721.1 through .223, and the compliance efforts in Sections 42-721.23 through .29 have failed, the CWD shall discontinue benefits in accordance with Section 69-210.2.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10553, 10554, 11320, 11327.4, 11327.5, and 11321.6, Welfare and Institutions Code.

<b>42-811</b>	<b>STATE HEARINGS FOR RCA WELFARE-TO-WORK PARTICIPANTS</b>	<b>42-811</b>
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- .1 State hearing and formal grievance procedures in Section 42-721.5 shall not apply to RCA welfare-to-work participants. For state hearing procedures, refer to Section 69-221.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 11320 and 11321.6, Welfare and Institutions Code.

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**NONLINKING FACTORS OF PUBLIC ASSISTANCE ELIGIBILITY  
DEMONSTRATION PROJECTS**

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## **CHAPTER 42-900 DEMONSTRATION PROJECTS**

<b>42-910</b>	<b>PARTICIPATION IN STATE SEASONAL EMPLOYMENT UNDER ASSEMBLY BILL 1531 (AB 1531)</b>	<b>42-910</b>
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**.1 Definition of "AB 1531 Participant"**

An "AB 1531 participant" is an AFDC recipient who voluntarily participates in State Civil Service seasonal class employment pursuant to the provisions of AB 1531 (Chapter 1291, Statutes of 1983).

**.2 Waiver of Penalties**

**.21** AFDC applicants of recipients shall not be penalized, either through the loss of benefits or eligibility, for not applying for, accepting, or continuing in State Civil Service seasonal class employment.

**.22** In accordance with an Executive Order, signed by the Director of the Department of Social Services on March 28, 1984, the following regulation sections shall not apply with respect to job opportunities made available under this project:

**.221** For job refusals, Sections 41-440.26, 41-605, 42-691, and 44-113.217 are to be waived. AFDC-U principal earner parents and AFDC-FG recipients who refuse seasonal jobs offered under this project will continue to be eligible for assistance. Earned income disregards will continue to be applied.

**.222** For job quits or terminations, Sections 41-440.22, 42-605, 42-691, and 44-113.217 are to be waived.

(a) Federal AFDC-U principal earner parents or AFDC-FG recipients are to be continually or immediately eligible for federal assistance after quitting or terminating a state seasonal job.

(b) State-only AFDC-U principal earner parents will also be continually or immediately eligible for State-only AFDC-U benefits, providing that they have a remaining period of eligibility.

(c) Earned income disregards will continue to be applied.

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.3 Verification

Section 42-710.2 shall only apply when it has been verified that an applicant's or recipient's job refusal or quit was related to State Civil Service seasonal class employment. Counties shall follow the normal procedures that are used to verify other reports of job refusal or job quit to confirm this information.

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**NONLINKING FACTORS OF PUBLIC ASSISTANCE ELIGIBILITY  
WELFARE-TO-WORK SRS COMPONENT**

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**CHAPTER 42-1000 WELFARE-TO-WORK SUPPLEMENTAL REFUGEE SERVICES (SRS) COMPONENT**

**42-1001 BACKGROUND 42-1001**

AB 3254, Chapter 379, Statutes of 1990, established the GAIN SRS Component. Counties may elect to maintain the SRS Component within the CalWORKs Welfare-to-Work Program for Welfare-to-Work-eligible CalWORKs refugees who would otherwise be temporarily excepted from Welfare-to-Work services. These services shall complement regular Welfare-to-Work services to prepare the refugee for self-sufficiency.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10063, 11320, and 13280, Welfare and Institutions Code.

**42-1002 INTRODUCTION - WELFARE-TO-WORK REQUIREMENTS FOR SRS PARTICIPANTS 42-1002**

All Chapter 42-700 regulations shall apply to Welfare-to-Work SRS participants, unless superseded by regulations contained in Sections 42-1000 through 42-1012.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10553, 10554, 11320, and 13280, Welfare and Institutions Code.

**42-1003 SRS COUNTY PLAN COORDINATION AND CONSULTATION 42-1003**

- .1 That portion of the county's CalWORKs Plan which addresses the implementation of the SRS Component shall be developed with significant participation by and input from public and private agencies/organizations involved in refugee resettlement. The county's planning process shall include representatives from refugee community-based organizations, voluntary agencies, local public/private providers of services to refugees, and refugee community leaders.

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- .2 Counties may use the CalWORKs planning process if that process meets the requirements specified above.

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<b>42-1003</b>	<b>SRS COUNTY PLAN COORDINATION AND CONSULTATION</b>	<b>42-1003</b>
	(Continued)	

- | .3 If the county's CalWORKs planning process does not meet the requirements contained in Section 42-1003.1, the county shall conduct a supplementary planning process.
- | .4 That portion of the county's CalWORKs plan which describes the SRS Component shall describe the planning process. This description shall identify the planning participants and discuss how the proposed services reflect the information received during the planning process.
- | .5 The description of the SRS Component shall also include the following information:
  - .51 Labor market analysis and identification of the population to be served;
  - .52 Description of the service population's needs;
  - .53 Description of the services to be provided including the types of services and the service delivery methodologies;
  - .54 Amount of funding and the anticipated outcomes specific to each service to be provided including intake, determination of client service needs, referral to services, and supportive services;
  - .55 Descriptive narrative and a flow chart of the client flow process which shall be used to determine the refugee's service needs and refer refugees to services within the SRS Component; and
  - .56 Description of the procurement process which shall be used to procure services to be provided under the SRS Component.
- | .6 Counties shall not be required to use the CalWORKs Welfare-to-Work client flow process. Counties electing not to use the CalWORKs Welfare-to-Work client flow process shall develop and implement county-specific client flow processes which shall be subject to CDSS review and approval.
- | .7 Counties shall annually update that section of the county CalWORKs Plan which contains the discussion and description of the SRS Component. The SRS update may be coordinated with the annual update of the county CalWORKs Plan.

NOTE: Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 11320, 13277, 13278, and 13280, Welfare and Institutions Code and Federal Register, Volume 51, No. 166, pages 30546 through 30553 dated Wednesday, August 27, 1986.

<b>42-1004</b>	<b>INITIAL DETERMINATION FOR SERVICE NEEDS AS RELATED TO EMPLOYMENT</b>	<b>42-1004</b>
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- .1 An initial determination of employability shall be made within a reasonable time period prior to the refugee's participation in the SRS Component. The determination shall be based on:
  - .11 The individual's educational, child care, and other supportive services needs;
  - .12 The individual's proficiencies, skill levels, and prior work experience;
  - .13 A review of the family circumstances, which may include the needs of any child of the individual; and
  - .14 Other factors that are determined relevant in developing the employability plan as described in Section 42-1006.

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- .2 The initial determination of employability may be conducted through various methods such as interviews, testing, counseling, and self-assessment instruments.

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NOTE: Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Section 13280, Welfare and Institutions Code and 45 CFR 250.41.

<b>42-1005</b>	<b>BASIC LITERACY LEVEL ASSESSMENT FOR SRS COMPONENT PARTICIPANTS</b>	<b>42-1005</b>
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- .1 The county shall make an initial county-standardized determination of the refugee client's employability and services needs relative to:
  - .11 The refugee's English language training and educational needs, employment skills and prior work history; and
  - .12 The refugee's supportive needs, including child care, and the needs of the individual's eligible children.

<b>42-1005</b>	<b>BASIC LITERACY LEVEL ASSESSMENT FOR SRS COMPONENT PARTICIPANTS (Continued)</b>	<b>42-1005</b>
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- .2 Counties may use existing service needs determination instruments/systems or develop SRS-specific systems to determine the refugee's service needs.

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- .3 Whichever system(s) the county elects to use shall be used consistently for all refugees participating in SRS Component services.
- .4 The service needs determination process shall be described in detail in the section of the county CalWORKs Plan which includes the SRS Component.

NOTE: Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 11320 and 13280, Welfare and Institutions Code.

<b>42-1006</b>	<b>DEVELOPMENT OF AN EMPLOYABILITY PLAN FOR SRS COMPONENT PARTICIPANTS</b>	<b>42-1006</b>
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- .1 On the basis of the initial determination of the client's employability and service needs (see Section 42-1005.1), the determination agency shall develop an employability plan in consultation with the participant, including a participant in a self-initiated activity. The employability plan shall:
- .11 Contain an employment goal for the participant;
  - .12 Describe the services to be provided by the determination agency, including child care and other supportive services;
  - .13 Describe the activities that will be undertaken by the participant to achieve the employment goal; and
  - .14 Describe any other needs of the family, such as participation by a child in drug education or in life skill planning sessions. The employability plan must take into account:
    - .141 Available program resources;
    - .142 The participant's supportive services needs;
    - .143 The participant's skills level and aptitudes;
    - .144 Local employment opportunities; and



<b>42-1006</b>	<b>DEVELOPMENT OF AN EMPLOYABILITY PLAN FOR SRS COMPONENT PARTICIPANTS (Continued)</b>	<b>42-1006</b>
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- .145 To the maximum extent possible the preferences of the participant.
- .2 The employability plan shall not be considered a contract.
- .3 Final approval of the employability plan rests with the determination agency.

NOTE: Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Section 13280, Welfare and Institutions Code and 45 CFR 250.41.

<b>42-1007</b>	<b>SRS PARTICIPANT PLANS</b>	<b>42-1007</b>
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- .1 Counties shall use plans for clients participating in the SRS Component.
- .2 Counties shall be permitted to use the participant's welfare-to-work plan or, subject to CDSS review and approval, develop their own county-specific plans.
- .3 All client plans shall be signed by the participant and the provider agency and shall, at a minimum, contain the following information:
  - .31 The purpose of the plan;
  - .32 The provider's participation standards;
  - .33 The participant's obligations, rights and responsibilities;
  - .34 The length of participation in the service/activity, including the number of hours of participation per week;
  - .35 The educational, training and/or employment services activities in which the refugee will participate; and
  - .36 A detailed description of the types of supportive services generally available to SRS welfare-to-work participants and a statement that supportive services shall be provided to the participant (see Section 42-750).

NOTE: Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 11320, 11322.6, and 13280, Welfare and Institutions Code.

<b>42-1008</b>	<b>PURCHASE OF SERVICE CONTRACTS</b>	<b>42-1008</b>
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- .1 Except where prohibited by CDSS regulations governing third-party contracts (MPP Chapter 23-600 Purchase of Service and Section 42-718.1), counties electing to implement the SRS Component to provide services for refugee applicants for, and recipients of, CalWORKs shall be permitted to use performance-based contracts to purchase such services.

NOTE: Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10063, 10553, 10554, and 13280, Welfare and Institutions Code.

<b>42-1009</b>	<b>MANDATORY COMPONENTS FOR SRS PARTICIPANTS</b>	<b>42-1009</b>
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- .1 The SRS Component shall include the following four services and activities.
- .11 Any educational activity below the postsecondary level that the agency determines to be appropriate to the participant's employment goal. Such activities may be combined with training that the agency determines is needed in relation to the participant's employability plan. The educational activities that shall be made available include, but are not limited to:
- .111 High school education or education designed to prepare a person to qualify for a high school equivalency certificate;
- .112 Basic and remedial education that will provide an individual with a basic literacy level in accordance with Section 42-716.32.
- .113 Education in English proficiency for an individual who is not sufficiently competent to understand, speak, read, or write the English language to allow employment commensurate with his/her employment goal;
- .12 Job skills training, which includes vocational training for a participant in technical job skills and equivalent knowledge and abilities in a specific occupational area;
- .13 Job readiness activities that help prepare participants for work by assuring that participants are familiar with general workplace expectations and exhibit work behavior and attitudes necessary to compete successfully in the labor market; and

<b>42-1009</b>	<b>MANDATORY COMPONENTS FOR SRS PARTICIPANTS</b>	<b>42-1009</b>
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- .14 Job development and job placement activity by the agency; e.g., soliciting a public or private employer's unsubsidized job opening or discovering such job openings, the marketing of participants, and securing job interviews for participants.

NOTE: Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 11322.6 and 13280, Welfare and Institutions Code.

<b>42-1010</b>	<b>OPTIONAL COMPONENTS FOR SRS PARTICIPANTS</b>	<b>42-1010</b>
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- .1 In addition to the mandatory components specified in Section 42-1009, the SRS Component shall include unsubsidized employment, job search, OJT and at least two of the other activities listed in Section 42-716.31:

.11 Repealed by Manual Letter No. 98-03, effective 7/1/98.

.12 Repealed by Manual Letter No. 98-03, effective 7/1/98.

.13 Repealed by Manual Letter No. 98-03, effective 7/1/98.

.14 Repealed by Manual Letter No. 98-03, effective 7/1/98.

NOTE: Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Section 11322.7, Welfare and Institutions Code.

<b>42-1011</b>	<b>CRITERIA FOR COMPONENT ASSIGNMENT OF TEENAGE PARENTS</b>	<b>42-1011</b>
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- .1 Counties shall provide educational services for teenage parents as described in 45 CFR Part 250.32(a) in the SRS Component.

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- .2 Counties may use resources (non-CalWORKs) other than refugee funds to cover the costs of these services.

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NOTE: Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 11320 and 13280, Welfare and Institutions Code.

<b>42-1012</b>	<b>CASE MANAGEMENT FOR SRS COMPONENT PARTICIPANTS</b>	<b>42-1012</b>
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- .1 Counties shall be permitted to designate an agency other than the CWD as the agency responsible for performing specific allowable case management tasks and/or activities.
- | .2 Eligibility determinations for CalWORKs and all sanctioning activities shall be handled by the CWD staff.
- | .3 Counties shall complete a 90-day follow-up for each participant who becomes employed, including those participants who become ineligible for CalWORKs as a result of such employment.

NOTE: Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10063 and 13280, Welfare and Institutions Code; Notices of Availability of Federal Fiscal Year 1990 Targeted Assistance Funds (Federal Register/Vol. 55, No. 72, pages 13974 through 13979 Friday, April 13, 1990; and Federal Register/Vol. 55, No. 151/ pages 32022 through 32024 Monday, August 6, 1990).

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**NONLINKING FACTORS OF PUBLIC ASSISTANCE ELIGIBILITY  
CHILD CARE USAGE AND DOCUMENTATION**

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**CHAPTER 42-1100 CHILD CARE USAGE AND DOCUMENTATION**

**42-1101 GENERAL STATEMENT 42-1101**

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- .1 AB 2184 (Chapter 1205, Statutes of 1991) requires the Department and the California Department of Education (CDE) to establish a system for documenting child care usage by Aid to Families with Dependent Children (AFDC) recipients in CDE's subsidized child care system. The purpose of documenting the child care usage of this population is to maximize the Federal Financial Participation (FFP) to which the state is entitled under Title IV-A of the Social Security Act.

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**42-1102 QUALIFICATION FOR TRACKING UNDER TITLE IV-A 42-1102**

- .1 The county and CDE contractor shall verify whether AFDC recipients and their children who receive child care services from CDE subsidized child care programs meet Title IV-A eligibility criteria, in order to determine whether their child care qualifies for tracking under Title IV-A.
- .11 The child care of an AFDC recipient and each of his/her children who receive child care services from a CDE subsidized child care program qualifies for tracking under Title IV-A if the recipient and child meet the following standards:
- .111 The AFDC recipient is:
- (a) A working recipient who is not receiving the dependent care disregard, as specified in Section 44-113.217, for his/her child receiving services through the CDE subsidized child care system; or,
  - (b) A participant in an education and training program approved according to the criteria specified in the Miller vs. Healy Interim Court Order; or
  - (c) A participant in the GAIN program, as specified in Chapter 42-700.

<b>42-1102</b>	<b>QUALIFICATION FOR TRACKING UNDER TITLE IV-A</b>	<b>42-1102</b>
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- (d) The Miller vs. Healy Interim Court Order established criteria for approving non-GAIN education and training programs. The Court ordered that child care assistance is to be provided to recipients "who meet existing GAIN criteria for the approval of education and training activities. Such child care shall be provided pursuant to existing GAIN criteria for approval of self-initiated programs and existing GAIN definitions for satisfactory progress and attendance requirements."

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.112 The recipient's child(ren) shall meet the condition(s) of one category in each of Sections 42-1102.112(a) and (b) below:

- (a) The child:
- (1) Is in the recipient's AFDC assistance unit; or
  - (2) Receives benefits under federal foster care; or
  - (3) Receives benefits under Supplemental Security Income/State Supplementary Payment (SSI/SSP) program.
- (b) The child:
- (1) Is under the age of 13; or
  - (2) Meets the age requirements under the AFDC program, as specified in Chapter 42-100 and is physically or mentally incapable of caring for himself-herself based on:
    - (A) A written statement of a physician or a licensed or certified psychologist; or
    - (B) Receipt of SSI/SSP; or



<b>42-1102</b>	<b>QUALIFICATION FOR TRACKING UNDER TITLE IV-A</b>	<b>42-1102</b>
	(Continued)	

- (3) Is under court supervision as specified in Welfare and Institutions Code Section 601 or 602 and meets the age requirement under the AFDC program, as specified in Chapter 42-100.
- .2 The county and CDE contractor shall redetermine whether the child care of an AFDC recipient and his/her child qualifies for tracking under Title IV-A when the county and CDE contractor become aware of a possible change in the eligibility status of the recipient or child.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Section 11008.19, Welfare and Institutions Code; 45 CFR 255.2(a) and 45 CFR 255.4; and Miller v. Healy, 768 S. Supp. 1331 (N.D. Cal 1991).

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**ELIGIBILITY AND ASSISTANCE STANDARDS  
RESPONSIBLE RELATIVES**

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## **DIVISION 43 RESPONSIBLE RELATIVES**

### **CHAPTER 43-100 RESPONSIBLE RELATIVES**

#### **43-100 RESPONSIBLE RELATIVES 43-100**

The code designates certain relatives who, under specified conditions, are legally liable to provide financial support or to contribute to the support of an applicant or recipient under the AFDC program and this chapter deals with the determination of responsibility of relatives in the AFDC program.

Relative responsibility should not be considered exclusively in terms of financial responsibility. Other positive factors may be found in strengthened family relationships, the contributions which relatives can make to the security of the recipient through family solidarity or through guidance and planning for the child in AFDC. These positive factors may be available from relatives who are not legally liable to provide financial support as well as those who have liability.

Responsibility rests with the county to determine not only financial responsibility of relatives in the AFDC program, but, in all programs, to develop to the maximum the potential resource of relatives in meeting social and emotional needs of the recipient.

#### **43-103 DEFINITIONS FOR PURPOSES OF SUPPORT RESPONSIBILITY 43-103**

.1 Repealed by Manual Letter No. EAS-91-14, effective 10/1/91.

.2 Repealed by Manual Letter No. EAS-91-14, effective 10/1/91.

.3 Stepparent

A stepparent is an individual who is married to the parent of a child of whom he or she is not the natural parent.

For purpose of this section, a stepparent includes the California domestic partner of a parent.

.4 Unmarried Parent

An unmarried parent is a parent of a child included in the FBU who is not married to the child's other natural parent.

<b>43-103</b>	<b>DEFINITIONS FOR PURPOSES OF SUPPORT RESPONSIBILITY</b>	<b>43-103</b>
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(Continued)

.5 Common-Law Marriage

California law, in Civil Code Section 4104 recognizes any out-of-state marriage as valid as long as it is valid where contracted or performed. In cases in which there was no formal marriage, it may be that a common-law marriage was established in another state. If the parents state they are married to each other, it is assumed that they are lawfully married unless this is refuted by other evidence.

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Basic Requirements - Common-Law Marriages

In most of the states which recognize common-law marriages, two basic requirements must be met:

1. Agreement Must Exist to Become Husband and Wife - This agreement may consist of a written contract but usually is just a simple, oral statement such as "I take you for my wife" or "You are now my wife." The words used must be in the present tense, and must express an intent to assume the relationship of husband and wife at the time involved and not at some future time. The parties have capacity to enter the agreement. This means that (1) they must be of sound mind; and (2) they must be of the minimum age. At common-law and in most states which recognize common-law marriages, the ages are 14 for the male and 12 for the female.
2. Must be Cohabitation Following the Verbal or Written Statements -Cohabitation is described as living together as husband and wife, each assuming the marital duties implicit in the relationship, usually including but not necessarily predicated on, sexual relations.

If these two facts are established and the state where they occurred recognizes common-law marriages, a marriage is in existence which is valid for all purposes in California and which can only be dissolved by formal divorce even in the state in which it was created. There is no such thing as an informal divorce in the United States.

**CHART - SUMMARY OF STATE LAWS ON COMMON-LAW MARRIAGE**

The following chart is intended to give the worker a general idea of the possibility of a valid common-law marriage in the various states. The chart will not provide all the answers. If the details of the law of a particular state are needed, the county counsel or district attorney or the legal staff of the SDBP should be consulted.

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State	Mutual Agreement	Cohabitation	Additional Requirements of Comments
Alabama	x	x	Mutual assumption of marital duties
Alaska			Abolished 1917
Arizona			Abolished 1913
Arkansas			Abolished 1905
California			Abolished 1895
Colorado	x	x	
Connecticut			Abolished
Delaware			Never recognized
Dist. of Columbia	x	x	
Florida	x	x	Cohabitation of mutual assumption of marital duties meets requirement
Georgia	x	x	Consummation according to law
Hawaii			Abolished
Idaho	x		Mutual assumption of marital duties
Illinois	x	x	Abolished 1905, except Quakers
Indiana	x	x	Abolished 1/1/58; open acknowledgment of the relation
Iowa	x	x	
Kansas	x		Holding each other out to public as husband and wife
Kentucky	x		Abolished
Louisiana			Never recognized
Maine			Probably not valid. No cases.
Maryland			Abolished
Massachusetts			Abolished; but can prove marriage by cohabitation

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	(Continued)	

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State	Mutual Agreement	Cohabitation	Additional Requirements of Comments
Michigan	x	x	Abolished 1/1/57
Minnesota	x	x	Abolished 4/26/41
Mississippi	x	x	Abolished 4/5/56
Missouri			Abolished 3/31/21
Montana	x	x	Assumption of marital relationship and repute in the community
Nebraska	x	x	Abolished 1923.
Nevada	x		Holding out to public
New Hampshire			Abolished 3/29/43
New Jersey	x		Abolished
New Mexico	x	x	Abolished 12/1/39
New York	x	x	Abolished since 1929
North Carolina			Valid prior to 1902
North Dakota			and from 1/1/08
Ohio	x	x	4/29/43. Abolished
Oklahoma	x	x	4/29/43. Open
Oregon			assumption of marital duties
Pennsylvania	x		Abolished
Rhode Island	x	x	Abolished 1890
South Carolina	x		Holding each other out
South Dakota	x	x	as husband and wife
Tennessee			
Texas	x	x	Abolished 7/1/59,
			marriage in fact,
			need exceptional
			circumstances
			Abolished
			Holding each other out
			to public as husband and wife

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**HANDBOOK CONTINUES**

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<b>43-103</b>	<b>DEFINITIONS FOR PURPOSES OF SUPPORT RESPONSIBILITY</b>	<b>43-103</b>
	(Continued)	

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Utah	Abolished
Vermont	Abolished
Virginia	Abolished
Washington	Abolished
West Virginia	Abolished
Wisconsin	Abolished 1917
Wyoming	Abolished 1931; standards unclear

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**.6 California Domestic Partner**

An individual who:

- .61 has a Declaration of Domestic Partnership registered with the California Secretary of State, or
- .62 is a member of a legal union, other than marriage, of two persons of the same sex validly formed in another jurisdiction, and substantially equivalent to a California registered domestic partnership.

NOTE: Authority cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code. Reference: Sections 10553, 10554, and 10604, Welfare and Institutions Code; and Sections 297, 297.5, 298.5 and 299.2, Family Code.

<b>43-105</b>	<b>RESPONSIBILITY FOR SUPPORT</b>	<b>43-105</b>
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**.1 Parents - General**

All parents regardless of their age or their marital status are responsible to the extent of their ability for the support and care of their children whether they are natural or adopted, including minor parents, and children in foster care. This responsibility continues even though the parent is not living with the child, the marriage of the parents has been legally dissolved, the parents were never married or there has been a court order removing the children from the parent's custody. For the purpose of the AFDC program, parental responsibility ceases only where a relinquishment for adoption is in effect or where the child is a minor parent who is married and living with his/her spouse.

<b>43-105</b>	<b>RESPONSIBILITY FOR SUPPORT (Continued)</b>	<b>43-105</b>
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.2 Parents of Minor Parents

.21 General

Among the resources of minor parents is the legally required support that their parents are capable of making. These resources must be explored in order to determine eligibility for AFDC. Parents are not financially liable for their grandchildren.

.22 (Repealed by Manual Letter No. 84-65)

.23 (Repealed by Manual Letter No. 84-65)

.3 Absent Parents

The resources which may be available for support of a child for whom application for aid has been made include contributions from the absent parent(s). Both parents, to the extent of their ability are legally responsible for the support of their child(ren).

.4 Unmarried Parents

The unmarried parent is responsible for the support of his/her child(ren) (including an unborn child).

The unmarried parent is not legally responsible for the support of his/her child's other parent nor of children not his/her own.

.5 Stepparent

A stepparent is responsible for the support of his/her children from another union living outside the home; and his/her children, natural and adopted, living in the home; and his/her spouse.

If the stepparent and his/her spouse and child(ren) living in the home are needy but are ineligible or refuse to apply for public assistance or General Relief, a determination of possible misuse of AFDC funds shall be made as, specified in Operations Manual Section 20-101.

The stepparent's income, after allowable deductions, is deemed available to aided stepchildren living in the home. See Section 44-133.6 for the computation of income to the FBU from a stepparent.

.51 (Repealed by Manual Letter No. 82-26.)

<b>43-105</b>	<b>RESPONSIBILITY FOR SUPPORT (Continued)</b>	<b>43-105</b>
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.52 Statement Required

When neither the stepparent nor any of his/her children are in the FBU (see Section 44-133.6) and aid is applied for or granted on behalf of a child living in a home with his natural or adoptive parent and nonadoptive stepparent, the parent shall complete a statement for purposes of determining the income of his/her spouse. Such statement shall contain information accurate for the budget period appropriate for grant determination (see Section 44-315.4 and 40-181.22).

.53 (Repealed by Manual Letter No. 82-26.)

.54 Failure to Cooperate

Failure of the parent to cooperate in the presentation of the required statement shall be considered the parent's decision to withhold information essential to the determination of the eligibility of the child, except that if he/she appears unable to comprehend or enter into the procedure for establishing eligibility, action shall be taken by the county in accordance with Sections 40-128.3 and 40-157.213. If the exception does not apply, aid shall be denied, or discontinued.

Failure of the stepparent to provide information essential to the determination of the eligibility of his/her stepchild(ren) shall result in the discontinuance or denial of aid.

.6 Adult Children

Adult children are responsible for the support of their parents to the extent of their ability. However, adult children are not responsible for the support of their brothers or sisters.

If the adult child and his or her legal dependents living in the home are needy but are ineligible or refuse to apply for public assistance or General Relief, a determination of possible misuse of AFDC funds shall be made as specified in Section 20-101.

<b>43-106</b>	<b>ASSIGNMENT OF SUPPORT RIGHTS</b>	<b>43-106</b>
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Repealed by Manual Letter No. EAS-97-09, effective 7/1/97

<b>43-107</b>	<b>COOPERATION REQUIREMENTS</b>	<b>43-107</b>
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.1 Mother and Unrelated Adult Male Living in the Home

This section applies only to the unrelated adult male living with an AFDC family in which the mother is included as the needy caretaker.

- .11 The mother of a child for whom she is applying for or receiving AFDC shall present to the Income Maintenance System a statement signed by her and by an unrelated male living with the family, other than a bona fide lodger, roomer or boarder, which shall set forth:

.111 The actual amount of the financial payment(s) made by the unrelated adult male for his share of the family's cost of housing, utilities, food, household operations and special needs which are shared by the family group;

.112 The actual amount of the financial contribution made by the unrelated adult male in cash or in kind for needs of the members of the family budget unit allowed by the AFDC standard of assistance; and

.113 The amount of the unrelated adult male's monthly earnings and other income, if known.

For the purposes of this requirement, both discussion and the written statement shall be limited to the fiscal and monetary arrangements between the mother and the unrelated adult male.

See Section 43-109 for "Required Financial Contribution" and definitions.

- .12 The statement shall be signed by the mother and the unrelated adult male under penalty of perjury. For this purpose, the statement shall include the following:

"I certify through my signature that each of the statements given is true and correct to the best of my knowledge and belief. I make this statement under the penalty of perjury and understand that any willful concealment or misstatement of material fact in this statement of which I have been given notice subjects me to the penalties prescribed for perjury in the Penal Code by the State of California. I agree to tell the county welfare department at once when there are any changes in the facts presented in this statement."

<b>43-107</b>	<b>COOPERATION REQUIREMENTS (Continued)</b>	<b>43-107</b>
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If the mother or the unrelated adult male do not understand English, the above statement shall be provided by the county welfare department written in a language which each understands, before it is signed.

- .13 Failure of the mother to cooperate in the presentation of the required statement shall be considered the mother's decision to withhold information essential to the determination of the eligibility of the child, except that if she appears unable to comprehend or enter into the procedure for establishing eligibility, action shall be taken by the Income Maintenance System in accordance with Sections 40-128.3 and 40-157.213. If the exception does not apply, aid shall be denied, or discontinued.
- .14 Refusal by the unrelated adult male to sign the statement is a violation of W&IC 11351.5 and information regarding such refusal shall, with the prior knowledge of the mother and the unrelated adult male, be sent to the district attorney.

Refusal by the unrelated adult male to sign the statement shall not relieve the mother from submitting a statement signed by her setting forth the facts specified in Section 43-107.51 above.

.2 Unwed Minor Parent

Aid shall be denied or discontinued to the unwed minor parent if he/she refuses to provide necessary information which can be verified regarding his or her parents' ability to support, or in lieu of such information refuses to consent to having his or her parents contacted for the purpose of determining their ability to provide support of their child. Unwed minor parents who refuse to provide necessary information or to consent to parental contact under this section may be eligible for Medi-Cal benefits despite their refusal. The county welfare department should ensure that the Medi-Cal eligibility of such individuals is considered.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10553 and 10554, Welfare and Institutions Code.

**43-109      REQUIRED FINANCIAL CONTRIBUTION - UNRELATED ADULT MALE      43-109**

**.1      Requirement**

An unrelated adult male, other than a bona fide lodger, roomer or boarder, who resides with a family applying for or receiving AFDC is required to make a financial contribution to the family which is not less than it would cost him to provide himself with an independent living arrangement, W&IC 11351.5.

**.2      Definitions**

.21    An "unrelated adult male" is a male who is 18 years old, or older, and not related by blood or marriage to any member of the AFDC family or to the unaided unborn of a woman aided under Sections 82-836 or 88-410.

.22    An unrelated adult male living in the home shall be considered a bona fide lodger, roomer or boarder upon the written statement of the mother to this effect, supported by evidence such as the following:

.211    Evidence that income from the lodger, roomer or boarder is reported for income tax purposes, or

.212    Possession of a license to operate a rooming house, or

.213    Evidence that quarters are furnished separate and apart from that occupied by the family, or

.214    Receipts which indicate payment of room rent or room and board.

Renewed evidence shall be required of the mother subsequent to the initial determination only if there is substantial reason, which shall be specified in the case record, to believe that the unrelated male is not a bona fide lodger, roomer or boarder.

.23    The cost of an "independent living arrangement" shall be the sum of the AFDC in-kind income values to a one-person family budget unit for housing (Section 44-115.811), utilities (Section 44-115.812), and food (Section 44-115.813). See Section 44-113.5 for determination of net income to the family budget unit from the contribution.

**.3      Action -- Requirement Not Met**

When the known or probable income of the unrelated adult male is insufficient for him to support himself in an independent living arrangement and to meet his expenses of employment, or his financial contribution to the family is less than the cost of providing himself with an independent living arrangement, a determination shall be made as specified in Section 20-101 with respect to possible misuse of AFDC funds.



<b>43-109</b>	<b>REQUIRED FINANCIAL CONTRIBUTION - UNRELATED ADULT MALE</b>	<b>43-109</b>
	(Continued)	

See Section 43-107.54 for action to be taken if the unrelated adult male refuses to sign a statement regarding his contribution to the family.

NOTE: Authority cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code. Reference: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

<b>43-117</b>	<b>NOTIFICATION TO SUPERIOR COURT</b>	<b>43-117</b>
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In all cases when aid has been supplied for or granted to a child of parents who are involved in a divorce, the county welfare department shall notify the superior court in accordance with W&I Code Section 11485. The notice shall contain any information known by the welfare department concerning financial resources of the parents which might be applied to child support. Form CA 321 may be used for this purpose. If the court becomes aware that children may be receiving aid or that an application may be made when a divorce or separate maintenance action has been filed, the court is required by W&IC Section 11485 to notify both the district attorney and the county welfare department of pending action. Form CA 322 is available for this purpose. In such cases, the county should reply on Form CA 321.

<b>43-119</b>	<b>SPONSORED NONCITIZENS</b>	<b>43-119</b>
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<b>.1</b>	<b>Sponsored Noncitizen - Definition</b>
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.11 Repealed by Manual Letter No. EAS-91-14, effective 10/1/91.

.12 The provisions of Sections 43-119.2 and .3 do not apply if the noncitizen is:

.121 Admitted to the United States as a result of the application of the provisions of Section 203(a)(7) (in effect prior to April 1, 1980) of the Immigration and Naturalization Act;

.122 Admitted to the United States as a result of the application of the provisions of Section 207(c) (in effect after March 31, 1980) of the Immigration and Naturalization Act;

.123 Paroled into the United States as a refugee under Section 212(d)(5) of the Immigration and Naturalization Act;

.124 Granted political asylum by the Attorney General under Section 208 of the Immigration and Naturalization Act;

<b>43-119</b>	<b>SPONSORED NONCITIZENS (Continued)</b>	<b>43-119</b>
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- .125 A Cuban or Haitian entrant, as defined in Section 501(e) of the Refugee Education Assistance Act of 1980 (Public Law 96-422).
- .126 A sponsored noncitizen that entered the country with an I-134 Affidavit of Support.
- .2 Individual Sponsors
  - .21 The provisions of Section 43-119.2 apply only to noncitizens:
    - .211 Whose sponsor signed an I-864 Affidavit of Support;
    - .212 Who are sponsored by individuals;
    - .213 Who are not exempt under Section 43-119.12; and
    - .214 Until such time as the noncitizen:
      - (a) Achieves United States citizenship through naturalization pursuant to the Immigration and Nationality Act (8 U.S.C. 1421 et seq.); or
      - (b) Has worked 40 qualifying quarters of coverage under Title II of the Social Security Act (42 U.S.C. 401 et seq.) or can be credited with such qualifying quarters as provided under 8 U.S.C. 1645, and
        - (1) In the case of any such qualifying quarter creditable for any period beginning after December 31, 1996, did not receive any federal means-tested public benefit, as provided under 8 U.S.C. 1631, during any such period.
      - (c) Leaves the country permanently; or
      - (d) The sponsor or noncitizen dies.
  - .22 All the income and resources of the sponsor who is not receiving CalWORKs, SSI or other public cash assistance payments (such as General Assistance) and the income and resources of the sponsor's spouse who lives with him/her and who is not receiving such public assistance payments shall be deemed to be the income and resources of the sponsored noncitizen. See Section 44-133.7 for the determination of the amount of this income, and Section 42-205.5 for the determination of the amount of resources. The following are exceptions to the deeming provisions:
    - .221 If a determination is made by the county that a sponsored noncitizen would go hungry and homeless without aid, the sponsored noncitizen is determined to be indigent. The exceptions to the deeming provisions that are permitted for indigence are as follows:

<b>43-119</b>	<b>SPONSORED NONCITIZENS (Continued)</b>	<b>43-119</b>
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- (a) In these cases, the amount of income and resources of the sponsor or the sponsor's spouse that is attributed to the sponsored noncitizen shall not exceed the amount actually provided.
- (b) This exception applies for a period beginning on the date of such determination and ending 12 months from that date. This exception is not renewable or transferable and it is granted only once in a lifetime.

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**HANDBOOK BEGINS HERE**

- (c) When a sponsored noncitizen is unable to provide the necessary information regarding their sponsor and the county can not establish contact with the sponsor and it is determined the sponsored noncitizen would go hungry and homeless without aid, the sponsored noncitizen is ruled indigent.

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**HANDBOOK ENDS HERE**

.222 For a 12-month period, the noncitizen shall be exempt from this deeming provision if:

- (a) In the case of an abused noncitizen or an abused parent of a noncitizen child:

The noncitizen or parent demonstrates that he/she has been battered or subjected to extreme cruelty in the United States by a spouse or a parent; or by a member of the spouse or parent's family who are residing in the same home as the noncitizen, and the spouse or parent consented to or acquiesced to such battery or cruelty.
- (b) In the case of a noncitizen whose child is abused:

The noncitizen child has been battered or subjected to extreme cruelty in the United States by the spouse or parent or family members of the noncitizen (without the active participation of the noncitizen in the battery or cruelty).
- (c) After a 12-month period, the exception to the provision under Section 43-119.222 continues regarding the batterer's income and resources only, if the noncitizen demonstrates that such battery or cruelty has been recognized in an order of a judge or administrative law judge or a prior determination of the Immigration and Naturalization Service.

.223 For the application of Section 43-119.222, there must exist, in the opinion of the county providing aid, a substantial connection between the battery or extreme cruelty and the need for the aid.

<b>43-119</b>	<b>SPONSORED NONCITIZENS (Continued)</b>	<b>43-119</b>
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- .224 Section 43-119.222 shall not apply to aid for a noncitizen during any period in which the individual responsible for such battery or cruelty resides in the same household or family eligibility unit as the individual who was subjected to such battery or cruelty.
- .23 As a condition of eligibility, the sponsored noncitizen has the following responsibilities:
- .231 To provide upon county request, information and documentation concerning his/her sponsor which may be necessary to make the determination under Section 44-133.7 and Section 42-205.5; and information and documentation which the noncitizen and his/her sponsor provided in support of the noncitizen's immigration application.
- (a) When a sponsored noncitizen is unwilling to provide the necessary information regarding their sponsor or when the information that is provided is not acceptable, the sponsored noncitizen is ineligible.
- .232 To obtain the cooperation from his/her sponsor which is necessary to make the determination under Section 44-133.10 and Section 42-205.5.
- .233 To comply with reporting requirements specified in Section 40-181.25.
- .24 In the event of the death of a noncitizen's sponsor(s), verification of death(s) shall be required only when the information reported is questionable. In the absence of evidence to the contrary, the sponsored noncitizen's statement under penalty of perjury is to be accepted and the sponsored noncitizen provisions shall no longer apply.

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- .3 Guidance Issued by the U. S. Attorney General for Determination of Substantial Connection Between Battery/Cruelty and Need for Aid (62 FR 65285) paraphrased to relate to the CalWORKs program.

Below is a list of examples to assist counties in making substantial connection determinations between battery or extreme cruelty and the need for the aid.

- .31 When aid is needed to enable the applicant, the applicant's child, and/or (in the case of a noncitizen child) the applicant's parent to become self-sufficient following separation from the abuser.

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**HANDBOOK CONTINUES**

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<b>43-119</b>	<b>SPONSORED NONCITIZENS (Continued)</b>
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**43-119**

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**HANDBOOK CONTINUES**

- .32 When aid is needed to enable the applicant, the applicant's child, and/or (in the case of a noncitizen child) the applicant's parent to escape the abuser and/or the community in which the abuser lives, or to ensure the safety of the applicant, the applicant's child, or the applicant parent from the abuser.
- .33 When aid is needed due to a loss of financial support resulting from the applicant's, his or her child's, and/or his or her parent's separation from the abuser.
- .34 When aid is needed because as the result of battery or extreme cruelty, the applicant loses his/her job, earns less, or is required to leave his or her job for safety reasons. Results of battery/extreme cruelty include: separation from the abuser, work absences, lower job performance resulting from the battery or extreme cruelty or from legal proceedings relating to it (child support, child custody, and divorce actions).
- .35 When aid is needed because the applicant, applicant's child or parent of noncitizen child requires medical attention or mental health counseling, or has become disabled, as a result of the battery or extreme cruelty.
- .36 When aid is needed because the loss of a dwelling or source of income or fear of the abuser following separation jeopardizes the applicant or parent of the noncitizen child to care for his or her children. (This includes the inability to house, feed, or clothe the children or to put the children into a day care for fear of being found by the abuser.)
- .37 When aid is needed to alleviate nutritional risks or need resulting from the abuse or following separation from the abuser.
- .38 When aid is needed to provide medical care during a pregnancy resulting from the abuser's sexual assault or abuse of, or relationship with the applicant, the applicant's child, and/or the parent of the noncitizen child; and/or to care for the resulting children.
- .39 When medical coverage and/or health care services are needed to replace medical coverage or health care services the applicant had when living with the abuser.

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NOTE: Authority cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code. Reference: Sections 10553, 10554, 10604, 11008.13, and 11008.135, Welfare and Institutions Code; 8 U.S.C. 1183a; 8 U.S.C. 1421 et seq.; 8 U.S.C. 1631; 8 U.S.C. 1641(c); 8 U.S.C. 1645; 42 U.S.C. 401 et seq.; 8 CFR 213a.2(e)(1); and 62 FR 61344, 61370.

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